

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

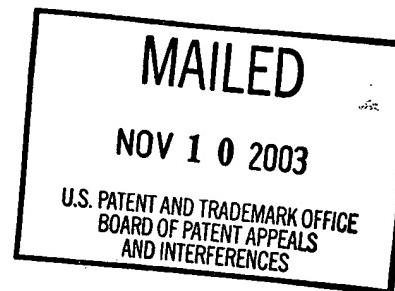
Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JoAnn Ruvolo

Application No. 09/500,439



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on September 22, 2003. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

Regarding the 103(a) rejection for Claim 5-8, 18-20 and 29-32. The Examiner's Answer dated July 2, 2003 (page 5) relies on

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a reference to Cameron (5,737,726) to maintain the 103(a) rejection for claims 5-8, 18-20 and 29-32. However, on page 10 of the Examiner's Answer, the examiner states in paragraph 3, that the:

". . . [T]he Final office action never used Cameron U.S. Patent No. 5,737,726 as a reference. There was a typographical error on page 5, which mentioned, "U.S. Patent 5,737,726," but the duration of the Final office action and the Notice of Reference Cited clearly establishes the use of only Xcontact and Kennedy U.S. of only Xcontact and Kennedy U.S. Patent. . . and was subsequently removed in the Examiner's Second office action non-final. . . ."

Clarification of the 103(a) rejection for Claim 5-8, 18-20 and 29-32 and specifically how the Cameron reference (Patent 5,737,726) is being applied in this rejection is required.

Further, an Information Disclosure Statement (hereinafter IDS) was filed February 9, 2000 (Paper No. 2). The Information Disclosure Form 1449 has not been signed by the examiner.

Accordingly, it is

Ordered that the application is returned to the examiner to:

- Supply a revised Examiner's Answer's to clarify the 103(a) rejection to claims 5-8, 18-20 and 29-32 with regard to the deletion of the Cameron reference (Patent 5,737,726) being applied to this rejection.
- For consideration of the Form 1449, Information

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Disclosure Statement, dated February 9, 2000.

- For any further action as deemed appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES


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